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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/731,205	08/13/2004	Steven Ray Jernigan		4596

7590 09/26/2007
Steven Ray Jernigan
Apt # 211-A
508 N. Dagmar
Hebbronville, TX 78361

EXAMINER

SOBUTKA, PHILIP

ART UNIT	PAPER NUMBER
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2618

MAIL DATE	DELIVERY MODE
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09/26/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/731,205

Applicant(s)

JERNIGAN, STEVEN RAY

Examiner

Philip J. Sobutka

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– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 July 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 July 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

1. The drawings are objected to because in figures 2 and 4, the left side lettering has been cut off; Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement-drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-9 are rejected as failing to define the invention in the manner required by 35 U.S.C. 112, second paragraph.

The claim(s) are narrative in form and replete with indefinite and functional or operational language. The structure which goes to make up the device must be clearly and positively specified. The structure must be organized and correlated in such a manner as to present a complete operative device. The claim(s) must be in one sentence form only. Note the format of the claims in the patent(s) cited.

It is also noted that the use of the word "The" is not consistent with standard claim language. Generally the word "the" is used interchangeably with the word "said" to indicate that the term has been described earlier. Generally the first recitation of a claimed limitation is preceded by the word "A" or "An"; as in "A car radio" or "An automobile audio system".

4. In claim 1, the term "the invention" should not be used in a claim.

The term "easily and continually" in claim 1 is a relative term which renders the claim indefinite. The term "easily and continually" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. The application does not provide a standard for defining easy and continual change.

Claim 1 recites the limitations "the invention" and "the system" in line 1. There is insufficient antecedent basis for this limitation in the claim.

Claim 2 recites the limitation "the S-Ray automotive entertainment system" in line 1. There is insufficient antecedent basis for this limitation in the claim.

Claim 3 recites the limitation "It" in line 1. There is insufficient antecedent basis for this limitation in the claim.

Claim 4 recites the limitation "the system" in line 1. There is insufficient antecedent basis for this limitation in the claim.

Claim 5 recites the limitation "the system" in line 1. There is insufficient antecedent basis for this limitation in the claim.

Regarding claim 5. The term "meet their wants or needs" in claim 5 is a relative term that renders the claim indefinite. The term "meet their wants or needs" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. The specification does not make it clear how wants or needs are met by the claimed limitations.

Claim 6 recites the limitation "the integrated hands free cell phone" in line 1. There is insufficient antecedent basis for this limitation in the claim.

Claim 7 recites the limitation "the system" in line 1. There is insufficient antecedent basis for this limitation in the claim.

Regarding claim 7. The term "easy" in claim 7 is a relative term which renders the claim indefinite. The term "easy" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably appraised of the scope of the invention. The specification does not provide a standard for easy upgrades.

Regarding claim 7, the phrase "such as" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention.

See MPEP § 2173.05(d).

Claim 8 recites the limitation "the system" in line 1. There is insufficient antecedent basis for this limitation in the claim.

Claim 9 recites the limitation "this system" in line 1. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1 and 9 are rejected under 35 U.S.C. 102(e) as being anticipated by Nagasaka et al (US 6,984,784)

Consider claim 1. *Note rejection under 35 USC 112 above.*

Nagasaka teaches a system comprising a modular arrangement (see *Nagasaka's figure 2*) allowing the user to easily change, upgrade or add to the system (see *Nagasaka column 2, line 25- column 3, lines 46, column 8, lines 14-28*)

Consider claim 9. *Note rejection under 35 USC 112 above.*

Nagasaka teaches a system that is user upgradeable using plug-in modules (see *Nagasaka's figure 2, and column 2, line 25- column 3, lines 46, column 8, lines 14-28*)

7. Claim 4 is rejected under 35 U.S.C. 102(e) as being anticipated by Herley et al (US 6,996,390)

Consider claim 4. *Note rejection under 35 USC 112 above.*

Herley teaches a system that is software driven (see *Herley's figure 21 and column 3, lines 54-65, column 25, lines 45-57*) and can be controlled by an optional touch-screen LCD monitor (*Herley's figure 2, item 200, described on column 8, lines 15-20*).

8. Claim 5 is rejected under 35 U.S.C. 102(e) as being anticipated by Frank et al (US 2003/0224840)

Consider claim 5. *Note rejection under 35 USC 112 above.*

Frank teaches a system which is modular (see *Frank's modules, shown as items 108,114-117 in figure 1, described in paragraphs 35-41*) in construction which allows users to custom design the entertainment system to meet their wants or needs (*Frank*

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notes that inclusion of the various modules is optional, for example in paragraphs 37 and 39) including different PCS/cell phone cards for different cell phone providers (Frank teaches use of SIM ((subscriber identity module) phone cards to allow communication through various phone networks in paragraph 41).

9. Claim 6 is rejected under 35 U.S.C. 102(b) as being anticipated by Moffi et al (US 2003/0109290).

Consider claim 6. *Note rejection under 35 USC 112 above.*

Moffi teaches an integrated hands free cell phone module (*Moffi's hands free arrangement includes a pad, or modules located on the steering wheel, as shown in figure 1 and described in paragraph 12*) that allows users to answer and make calls without taking their hands off of the wheel (*Moffi teaches allowing users to make or answer calls without taking their hands off the wheel in paragraphs 28 and 32*).

10. Claim 8 is rejected under 35 U.S.C. 102(e) as being anticipated by Gammenthaler (US 2004/0201765).

Consider claim 8. *Note rejection under 35 USC 112 above.*

Gammenthaler teaches a system that can record from one type of media to another using an onboard hard disc drive storage system (*Gammenthaler teaches a hard disk transferring from one type of media to another in paragraphs 8-12, paragraphs 34-36*).

Claim Rejections - 35 USC § 103

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claims 2 and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Herley et al (US 6,996,390)

Consider claim 2. *Note rejection under 35 USC 112 above.*

Herley teaches an automotive entertainment system that plays and records to various media including CD DVD and Flash (*Herley see figures 1, 21, column 5, lines 13-24, and column 25 lines 13-45*). Herley lacks a teaching of using "all modern available media". However, Herley notes that the storage devices are not limited to those mentioned (*Herley column 5, lines 13-24, and column 25 lines 13-45*). Official Notice is taken that various types of digital storage media are notoriously well known in the art. Therefore it would have been obvious to one of ordinary skill in the art to modify Herley to use all available media in order to ensure compatibility with any possible storage device a user may desire to use.

Consider claim 3. *Note rejection under 35 USC 112 above.*

Herley teaches a system that will receive and allow the user to record unprotected AWF /CB and Shortwave broadcast to all current CD/DVD type media. Note that Herley as modified above would be able to record received signals to all current media. Herley lacks a teaching of the system receiving AWF/CB and Shortwave

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broadcasts. Official Notice is taken that AWF/CB and shortwave broadcasts are notoriously well known in the art. Therefore it would have been obvious to one of ordinary skill in the art to modify the system to receive AWF/CB and Shortwave broadcasts in order to make the audio system more attractive to buyers who are fans of these types of broadcasting.

13. Claim 7 is rejected under 35 U.S.C. 102(e) as being anticipated by Everhart et al (US 6,240,347).

Consider claim 7. *Note rejection under 35 USC 112 above.*

14. Everhart teaches a voice interactive system control interface (Everhart column 1, lines 46-66) for controlling various automotive systems including various media and broadcast types (*Everhart see column 1, lines 11-16, column 2, lines 28-48*). Note that Everhart teaches the system is reconfigurable or upgradeable to control various accessories (*Everhart see column 1, lines 11-16, column 2, lines 28-48, column 4, lines 20-35*). Everhart lacks a teaching of the system using new broadcast or media types. Official Notice is taken that various broadcast and media types are notoriously well known in the art. Therefore it would have been obvious to one of ordinary skill in the art to modify Everhart to use other broadcast or media types in order to make the audio system more attractive to buyers who are fans or users of these types of broadcasting or media.

Response to Arguments

15. Applicant's arguments filed July 3, 2006 have been fully considered but they are not persuasive.

16. Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references.

Conclusion

17. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

18. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

19. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matthew D. Anderson can be reached on 571-272-4177.

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20. The central fax phone number for the Office is 571-273-8300.

Most facsimile-transmitted patent application related correspondence is required to be sent to the Central FAX Number.

CENTRALIZED DELIVERY POLICY: For patent related correspondence, hand carry deliveries must be made to the Customer Service Window (now located at the Randolph Building, 401 Dulany Street, Alexandria, VA 22314), and facsimile transmissions must be sent to the Central FAX number, unless an exception applies. For example, if the examiner has rejected claims in a regular U.S. patent application, and the reply to the examiner's Office action is desired to be transmitted by facsimile rather than mailed, the reply must be sent to the Central FAX Number.

21. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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